



UNITED STATES DEPARTMENT OF COMMERCE
Pat nt and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/629,524 08/01/00 METZ

D 8266-0371

025267
BOSE MCKINNEY & EVANS LLP
135 N PENNSYLVANIA ST
SUITE 2700
INDIANAPOLIS IN 46204

PM82/0924

EXAMINER

CHAN, K
ART UNIT

PAPER NUMBER

3632
DATE MAILED:

09/24/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

BEST AVAILABLE COPY

Office Action Summary

Application No.

09/629,524

Applicant(s)

METZ ET AL.

Examiner

Korie H. Chan

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claim 29 is objected to because of the following informalities: Claim 29 is redundant to claim 28 both of which depend from claim 26. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2, line 2, "axis" should be corrected to "the axis". Claim 4, line 1, "lock device" should be corrected to "lock member". Claim 6, line 1, "the release" lacks proper antecedent basis. Independent claim 10 (as well as independent claim 20) recites the "second position" in lines 8-9 as "locking the position of the adjustment pole relative to the base pole". On the other hand, independent claim 1, lines 8-10 (as well as claim 25) recites the lock member as having "a second position" in which the edge disengages from the second member" to allow movement of the second member relative to the first member. Even though these claims are independent from each other, the use of the term "second position" with two contradicting meanings - one being a locked position, and the other being an unlocked position, render the claims as a whole vague and indefinite. Regarding claim 13, line 2, "a direction opposite said direction" is vague and indefinite as the two directions are

not distinguishable from one another. Examiner suggest the use of "a second direction opposite said first direction" in claim 13, and in claim 12, replace "a direction with "a first direction".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Lundstrom'681. Lundstrom'681 discloses a support assembly comprising a telescoping assembly with a base pole (1), an adjustment pole (9), and lock member (12) coupling the base pole and adjustment pole; wherein the lock member comprises a locking plate (4) biased in a locking position having an aperture (21) being askewed in the lock position, a release member (7) biased to the lock position by spring, a housing (1 and 3) with locking member pivotally coupled therein at angles deviating from 90 degrees relative to the longitudinal axis, and the release member (7) positioned to slide on the housing, wherein the housing has groove (between 8 and 11) to receive end of lock member (4) and the release has a notch (between 7 and 11) receive the other end of the lock member (4).

Applicant's intended use for supporting medical device is not accorded with patentable weight.

Claims 1-29 and 31-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Toder'074. Toder'074 discloses a telescoping assembly with a base pole (22), an adjustment pole (21) made of corrosion resistant material being stainless steel and plastic material (Col. 1, lines 14-15), and a lock member (47, fig. 11) coupling the base pole and adjustment pole; wherein the lock member comprises a locking plate (47) biased in a locking position having an aperture (48) being askewed in the lock position, a release member (37, 36, fig. 3) biased to the lock position by spring, a housing (27) with the locking member pivotally coupled therein and movable at angles deviating from 90 degrees relative to the longitudinal axis, and the release member (37) positioned to slide on the housing, wherein the housing has groove (between top edge of 21 and 27, fig. 11) to receive end of lock member (4), and a hook (23) mounted on adjustment pole.

Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Heller et al'536. Heller discloses a support assembly comprising a telescoping assembly with a base pole (20), an adjustment pole (30), and lock member (35) coupling the base pole and adjustment pole; wherein the lock member comprises a locking plate (39') biased in a locking position by spring (41) having an aperture (39a, fig. 3) being askewed in the lock position, a release member (40) biased to the lock position by spring (41), a housing (34) with locking member pivotally coupled therein (at 70') at angles deviating from 90 degrees relative to the longitudinal axis, and the release member (42) positioned to slide on the housing.

Applicant's intended use for supporting medical device is not accorded with patentable weight.

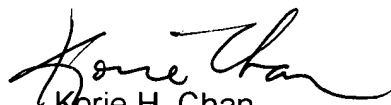
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lin'162 and Johnson et al'027 discloses telescoping medical device support assembly. Cohen'023, Adams'081, Lewis'947, MacKnight'24290, and Lung et al'014 all teach telescoping assembly with locking plate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Les Braun can be reached on 703-308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Korie H. Chan
Examiner
Art Unit 3632

khc
September 20, 2001